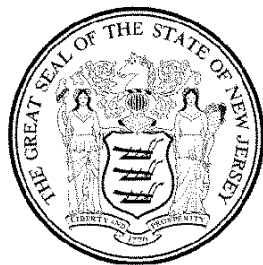

Statutes and Regulations
Board of Examiners of Electrical Contractors
Division of Consumer Affairs
N.J. Department of Law & Public Safety

As of December 2000



Board of Examiners of Electrical Contractors

Board of Examiners of Electrical Contractors
Division of Consumer Affairs
N.J. Department of Law & Public Safety

Location:

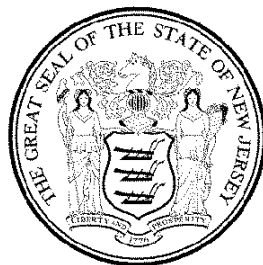
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Newark, New Jersey 07102
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Please note:

To see if there have been any changes to these regulations, please see the Division of Consumer Affairs' Web site (www.state.nj/lps/ca/adopt.htm). If the Board is not listed at the Web site, then no changes have been made to the Board's regulations.



Board of Examiners of
Electrical Contractors

Acting Governor

Donald T. DiFrancesco

Attorney General

John J. Farmer, Jr.

Director

Mark S. Herr

Board of Examiners of Electrical Contractors

Board Members:

Joseph P. Schooley, Chairman

Joseph F. Cantalupo

Robert A. McCullough

Mitchell R. Malec

Gail Best

Pushpavati Amin

Thomas J. Demcsak

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Board of Examiners of Electrical Contractors Statutes

SUBTITLE 1. PROFESSIONS AND OCCUPATIONS REGULATED BY STATE BOARDS OF REGISTRATION AND EXAMINATION

45:5A-1. Short title

This act may be cited as “The Electrical Contractors Licensing Act of 1962.”

45:5A-2. Definition

For the purpose of this act, unless otherwise indicated by the context:

- (a) “Act” means this act and the rules and regulations adopted under it;
- (b) “Board” means the Board of Examiners of Electrical Contractors created by section 3 of this act; ¹
- (c) “Department” means the Department of Law and Public Safety;
- (d) “Electrical contractor” means a person who engages in the business of contracting to install, erect, repair or alter electrical equipment for the generation, transmission or utilization of electrical energy;
- (e) “Person” means a person, firm, corporation or other legal entity;
- (f) “Alarm business” means the installation, servicing or maintenance of burglar alarm, fire alarm or electronic security systems, or the monitoring or responding to alarm signals when provided in conjunction therewith. “Installation,” as used in this definition, includes the survey of a premises, the design and preparation of the specifications for the equipment or system to be installed pursuant to a survey, the installation of the equipment or system, or the demonstration of the equipment or system after the installation is completed, but does not include any survey, design or preparation of specifica-

tions for equipment or for a system that is prepared by an engineer licensed pursuant to the provisions of P.L.1938, c. 342 (C.45:8-27 et seq.), or an architect licensed pursuant to the provisions of chapter 3 of Title 45 of the Revised Statutes, if the survey, design, or preparation of specifications is part of a design for construction of a new building or premises or a renovation of an existing building or premises, which renovation includes components other than the installation of a burglar alarm, fire alarm or electronic security system, and further does not include the design or preparation of specifications for the equipment or system to be installed that are within the practice of professional engineering as defined in subsection (b) of section 2 of P.L.1938, c. 342 (C.45:8-28);

- (g) “Burglar alarm” means a security system comprised of an interconnected series of alarm devices or components, including systems interconnected with radio frequency signals, which emits an audible, visual or electronic signal indicating an alarm condition and providing a warning of intrusion, which is designed to discourage crime;
- (h) “Business firm” means a partnership, corporation or other business entity engaged in the alarm business or locksmithing services;
- (i) “Committee” means the Fire Alarm, Burglar Alarm, and Locksmith Advisory Committee created by section 3 of P.L.1997, c. 305 (C.45:5A-23);
- (j) “Electronic security system” means a security system comprised of an interconnected series of devices or components, including systems with audio and video signals or other electronic systems, which emits or transmits an audible, visual or electronic signal warning of intrusion and provides notification of authorized entry or exit, which is designed to discourage crime;
- (k) “Fire alarm” means a security system comprised of an interconnected series of alarm devices or components, including systems interconnected with radio frequency signals, which emits an audible, visual or electronic signal indicating an alarm

condition and which provides a warning of the presence of smoke or fire. “Fire alarm” does not mean a system whose primary purpose is telecommunications with energy control, the monitoring of the interior environment being an incidental feature thereto;

- (l) “Licensed locksmith” means a person who is licensed pursuant to the provisions of section 7 of P.L.1997, c.305 (C.45:5A-27);
- (m) “Licensee” means a person licensed to engage in the alarm business or provide locksmithing services pursuant to the provisions of section 7 of P.L.1997, c.305 (C.45:5A-27);
- (n) “Locksmithing services” means the modification, recombination, repair or installation of mechanical locking devices and electronic security systems for any type of compensation and includes the following: repairing, rebuilding, recoding, servicing, adjusting, installing, manipulating or bypassing of a mechanical or electronic locking device, for controlled access or egress to premises, vehicles, safes, vaults, safe doors, lock boxes, automatic teller machines or other devices for safeguarding areas where access is meant to be limited; operating a mechanical or electronic locking device, safe or vault by means other than those intended by the manufacturer of such locking devices, safes or vaults; or consulting and providing technical advice regarding selection of hardware and locking systems of mechanical or electronic locking devices and electronic security systems; except that “locksmithing services” shall not include the installation of a prefabricated lock set and door knob into a door of a residence.

¹ N.J.S.A 45:5A-3.

45:5A-3. Board of examiners; creation; membership; qualifications; terms; vacancies

There is created a Board of Examiners of Electrical Contractors in the Department of Law and Public Safety consisting of 7 members, hereinafter referred to as the “board.” The members of such board shall be citizens of the State appointed by the Governor, with the advice and consent of the Senate. They shall be appointed initially for the following terms: Three members for terms of 1 year

from July 1, 1962, 2 members for terms of 2 years from July 1, 1962, and 2 members for terms of 3 years from July 1, 1962. Thereafter members shall be appointed for terms of 3 years and until the appointment and qualification of their successors. The Governor shall fill any vacancy in said board for the unexpired portion of the term. No more than 4 members of the board shall be members of the same political party. Three members of the board shall be qualified electrical contractors with experience of not less than 10 years as an electrical contractor, one shall be a qualified electrical inspector, with experience of not less than 5 years as an electrical inspector, one shall be a qualified journeyman employed in the electrical construction industry for not less than 5 years. One shall be a public member not associated with the electrical industry, and one shall be a licensed professional engineer with experience of not less than 5 years in the electrical industry.

45:5A-4. Compensation; traveling expenses

Each member of the board shall receive \$25.00 for each day of actual service in attending meetings of the board at which business is transacted and in addition shall be entitled to be reimbursed for his necessary traveling expenses; provided, such compensation in 1 fiscal year shall not exceed \$1,000.00 per member.

45:5A-5. Organization of board; appointment of assistants; incurring of expenses

At the meeting for organization after the first appointment of said board the members thereof shall choose from among their number a chairman, who shall preside at all meetings of the board, and a secretary who need not be a member of the board. The chairman and secretary so chosen shall be subject to the approval of the Attorney General. The chairman and secretary shall hold office for 1 year and until their successors are chosen. Vacancies in the office of chairman or secretary between regular appointments shall be filled by the board, with the approval of the Attorney General. The board is authorized to appoint, with the approval of the Attorney General such clerical assistants as may be required. The board, with the approval of the Attorney General, shall fix the compensation of the secretary and the clerical assistants, within the limits of available appropriations and

subject to applicable civil service provisions. The board shall be authorized to incur such other expenses, within available appropriations therefor, as may be required to carry out its purpose and function. All moneys received by said board shall be remitted to the State Treasury.

45:5A-6. Rules and regulations

The board may adopt and amend all rules and regulations not inconsistent with the Constitution and laws of this State which may be reasonably necessary for the proper performance of its duties and the purposes of this act and for the conduct of the proceedings before it.

45:5A-7. Repealed by L.1979, c. 432, § 1, eff. Feb. 14, 1980

45:5A-8. Record of proceedings; register of license applications; contents

The Board of Examiners of Electrical Contractors shall keep a record of its proceedings and a register of all applications for licenses and business permits, which register shall show: (a) the name, age and residence of each applicant, (b) the date of the application, (c) the place of business of such applicant, (d) the qualifications of the applicant, (e) whether or not an examination was required, (f) whether the applicant was rejected, (g) whether a license or business permit was granted, (h) the date of the action of the board and (i) such other information as may be deemed necessary by the board.

45:5A-9. Necessity of business permit and license; qualifications; examinations; fees

- (a) On or after July 1, 1963, no person shall advertise, enter into, engage in or work in business as an electrical contractor, unless such person has secured a business permit and such person or an officer, partner or employee who is or will be actively engaged in the business for which a business permit is sought has obtained a license from the board in accordance with the provisions of this act, and such licensee shall assume full responsibility for inspection and supervision of all electrical work to be performed by the permittee in compliance with recognized safety standards. A licensee shall not

be entitled to qualify more than one person for a business permit. Any single act or transaction shall constitute engaging in the business of electrical contracting within the meaning of this chapter.

- (b) Except as otherwise provided in section 10,¹ no person shall be granted an electrical contractor's license unless he shall first establish his qualifications therefor and shall take and pass the examination for electrical contractors. An applicant for such examination shall have been employed or engaged in the business of electrical construction and installation or have equivalent practical experience for a period of not less than five years preceding the time of such application, or shall otherwise establish to the satisfaction of the board that the applicant has the necessary educational background and experience to qualify to take the examination for a license.

The examination shall be so designed as to establish the competence and qualification of the applicant to perform and supervise the various phases of electrical contracting work. Any applicant who shall fail to pass such examination shall not be eligible to retake an examination until six months from the date of such failure.

- (c) An applicant for an examination for a license shall apply to the board for permission to take such examination upon forms provided by the board and shall provide the board with such information as shall be necessary to establish his qualifications to take the examination. The applicant for an initial examination shall pay a fee to the board of \$25.00. An applicant for re-examination shall pay a fee to the board of \$15.00. Such fees shall not be refundable.

¹ Section 45:5A-10.

45:5A-9.1. Required filings with board; security for potential liability; taxpayer identification number

Every person who holds a business permit for electrical work pursuant to P.L.1962, c. 162 (C. 45:5A-1 et seq.) shall:

- a. Secure, maintain and file with the board proof of a bank letter of credit covering the electrical work done pursuant to that business permit or a certificate of general li-

ability insurance from an insurance company authorized and licensed to do business in this State covering the electrical work done pursuant to that business permit. The minimum amount of the bank letter of credit shall be \$300,000 for property damage and bodily injury to or death of one or more persons and the minimum amount of general liability insurance shall be \$300,000 for the combined property damage and bodily injury to or death of one or more persons in any one accident or occurrence; and

- b. File with the board its Federal Tax Identification number. Every proof of a bank letter of credit or certificate of insurance required to be filed with the board pursuant to this section shall provide that cancellation of the bank letter of credit or insurance shall not be effective unless and until at least 10 days' notice of intention to cancel has been received in writing by the board.

45:5A-10. Repealed by L.1979, c. 432, § 5, eff. Feb. 14, 1980

45:5A-11. Issuance of licenses and business permits by board

The board shall receive all applications for licenses or business permits filed by persons seeking to enter upon or continue in the electrical contracting business as herein defined within this State and upon proper qualification of such applicant shall issue the license or permit applied for.

45:5A-12. Examinations; notice

The board shall prescribe the conditions of examination of, and subject to the provisions of this act, shall give examinations to all persons who are, under the provisions of this act, required to take such examinations. The scope of such examination shall cover such matters as the provisions of nationally recognized electrical installation safety standards and the theoretical and practical application of the same encountered in electrical work. It shall hold a minimum of 4 examinations each year at such time and ¹ or place within the State as the board shall designate. Public notice shall be given of the time and place of all examinations. In the conduct of the examination the

board shall prescribe a standard form of examination which may be revised from time to time as circumstances require. Said examinations shall give ample opportunity for all applicants to be thoroughly and carefully examined, may be written or practical, or both, and shall be supervised by 3 or more of the examiners, but no license shall be granted except by the board.

¹ So in enrolled bill.

45:5A-13. Initial license or business permit; renewals; fees; applications; duration of license or permit; re-examination

Before a license or business permit shall issue fees shall be paid for same in the following amounts:—(a) for initial license—\$75.00, (b) for renewal— \$25.00, (c) for initial business permit or renewal thereof—\$12.50.

A person seeking issuance or renewal of any business permit shall file with the board an application in writing upon forms prescribed by the board. The application shall designate the person who possesses a license issued pursuant to the provisions of this act and shall contain such other information as the board may prescribe. The application shall be accompanied by the proper fee.

If the applicant is a natural person, the application shall be signed and sworn to by the applicant. If the applicant is a partnership or other business association, the application shall be signed and sworn to by all natural persons composing such partnership or business association. If the applicant is a corporation, the application shall be signed and sworn to by the president and secretary thereof.

A person seeking issuance or renewal of any license shall file with the board an application in writing upon forms prescribed by the board, containing such information as the board shall require to maintain the register provided for in section 8 of this act¹ and to establish the qualifications of the applicant. The application shall be signed and sworn to by the applicant and shall be accompanied by the proper fee.

The license and business permit periods shall be from July 1 to June 30 of the following year and licenses and business permits shall be renewed on or before July 1 of each year. Renewal shall be governed by the standards applicable to initial issuance. The board may

require a re-examination upon failure to apply for a renewal within 30 days of the date of the expiration of any license. Any license expiring while the holder thereof is outside the continental limits of the United States in connection with any project undertaken by the Government of the United States, or while in the service of the Armed Forces of the United States shall be renewed without further examinations upon payment of the prescribed fee at any time within 4 months after such person's return to the United States or discharge from the armed forces.

¹Section 45:5A-8.

45:5A-13.1. Continuing education requirements

The Board of Examiners of Electrical Contractors shall require each electrical contractor, as a condition for triennial license renewal pursuant to section 1 of P.L.1972, c. 108 (C.45:1-7), to complete 34 credits of continuing education requirements imposed by the board pursuant to sections 2 and 3 of this act.

45:5A-13.2. Standards; programs

- a. The board shall:
 - (1) Establish standards for continuing electrical contracting education regarding the subject matter and content of continuing education courses;
 - (2) Approve educational programs offering credit towards the continuing electrical contracting education requirements; and
 - (3) Approve other equivalent educational programs including, but not limited to, programs provided by electrical contracting associations and other relevant professional and technical associations, and shall establish procedures for the issuance of credit upon satisfactory proof of the completion of these programs.
- b. In the case of education courses and programs, each hour of instruction shall be equivalent to one credit.

45:5A-13.3. Required course of study.

The educational course of study required of licensed electrical contractors for each triennial registration period shall include 34 hours

of continuing education as follows:

- a. A 10-hour course of study relating to the most recent edition of the National Electrical Code, nine hours of which shall pertain to the code and one hour of which shall pertain to applicable State statutes and regulations; and
- b. Twenty-four hours of instruction approved by the board covering one or more of the following subjects:
 - (1) Installation, erection, repair or alteration of electrical equipment for the generation, transmission or utilization of electrical energy;
 - (2) Transmission or utilization of electrical energy;
 - (3) Job estimating, management and business practices;
 - (4) Supervisory responsibilities required of licensees pursuant to the laws of this State; and
 - (5) Any other subject relevant to electrical contracting and construction as determined by the board.

45:5A-13.4. Hardship

The board may, in its discretion, waive requirements for continuing education under this act on an individual basis for reasons of hardship such as illness or disability, retirement of the license or other good cause.

45:5A-13.5. Completion requirements

The board shall not require completion of continuing education credits for initial registrations. The board shall not require completion of continuing education credits for any registration periods commencing within 12 months of the effective date of this act. The board shall require completion of continuing education credits on a pro rata basis for any registration periods commencing more than 12 but less than 36 months following the effective date of this act.

45:5A-13.6. Carry-over of credits

In the event an electrical contractor completes a number of continuing education credit hours in excess of the number required by the board pursuant to section 1 of this act, the board shall allow a maximum of eight credit hours to be carried over to satisfy the elec-

trical contractor's continuing education requirement for the next triennial licensure period, but these credit hours shall not be applicable thereafter.

45:5A-13.7. Registration fees

The board shall permit any electrical contracting association or other professional or technical association offering a continuing electrical contracting education program approved by the board pursuant to section 2 of this act to impose a reasonable differential in registration fees for courses upon licensed electrical contractors who are not members of that association.

45:5A-14. Death or disability of qualifying representative;
continuance of business

No person shall be denied the privilege of continuing business as an electrical contractor in the event of death, illness, or other physical disability of the representative thereof who qualified the person for a business permit for at least 6 months following the date of such death, illness or other physical disability; provided that said business is conducted under such qualified supervision as the board deems adequate.

45:5A-15. Transferability of license or business permit

No license or business permit issued under this act shall be assigned or transferable.

45:5A-16. Repealed by L.1979, c. 432, § 1, eff. Feb. 14, 1980

45:5A-17. Powers of municipalities; violations of municipal ordinances

- (a) This act shall not deny to any municipality the power to inspect electrical work or equipment or the power to regulate the standards and manner in which electrical work shall be done but no municipality shall require any business permit holder or electrical contractor licensed under this act to obtain a municipal license or business permit to engage in the business of electrical contracting in such municipality.

- (b) Any licensee or business permit holder who willfully fails to comply with any municipal ordinance concerning the inspection of electrical work shall be guilty of a violation of this act.

45:5A-18. Exempt work or construction

Electrical work or construction which is performed on the following facilities or which is by or for the following agencies shall not be included within the business of electrical contracting so as to require the securing of a business permit under this act:

- (a) Minor repair work such as the replacement of lamps and fuses.
- (b) The connection of portable electrical appliances to suitable permanently installed receptacles.
- (c) The testing, servicing or repairing of electrical equipment or apparatus.
- (d) Electrical work in mines, on ships, railway cars, elevators, escalators or automotive equipment.
- (e) Municipal plants or any public utility as defined in R.S.48:2-13, organized for the purpose of constructing, maintaining and operating works for the generation, supplying, transmission and distribution of electricity for electric light, heat, or power.
- (f) A public utility subject to regulation, supervision or control by a federal regulatory body, or a public utility operating under the authority granted by the State of New Jersey, and engaged in the furnishing of communication or signal service, or both, to a public utility, or to the public, as an integral part of a communication or signal system, and any agency associated or affiliated with any public utility and engaged in research and development in the communications field.
- (g) A railway utility in the exercise of its functions as a utility and located in or on buildings or premises used exclusively by such an agency.
- (h) Commercial radio and television transmission equipment.
- (i) Construction by any branch of the federal government.
- (j) Any work with a potential of less than 10 volts.

- (k) Repair, manufacturing and maintenance work on premises occupied by a firm or corporation, and installation work on premises occupied by a firm or corporation and performed by a regular employee who is a qualified journeyman electrician.
- (l) Installation, repair or maintenance performed by regular employees of the State or of a municipality, county, or school district on the premises or property owned or occupied by the State, a municipality, county, or school district.
- (m) The maintaining, installing or connecting of automatic oil, gas or coal burning equipment, gasoline or diesel oil dispensing equipment and the lighting in connection therewith to a supply of adequate size at the load side of the distribution board.
- (n) Work performed by a person on a dwelling that is occupied solely as a residence for himself or for a member or members of his immediate family.
- (o) Any work performed by an alarm business with a potential of not more than 30 volts, involving the installation, servicing, or maintenance of a burglar alarm or a fire alarm, as those terms are defined by section 2 of this amendatory and supplementary act.¹ Nothing herein shall be deemed to exempt work covered by this subsection from inspection required by the “State Uniform Construction Code Act,” P.L.1975, c. 217 (C.52:27D-119 et seq.) or regulations adopted pursuant thereto.
- (p) Any work performed by a landscape irrigation contractor which has the potential of not more than 30 volts involving the installation, servicing, or maintenance of a landscape irrigation system as this term is defined by section 2 of this amendatory and supplementary act. Nothing in this act shall be deemed to exempt work covered by this subsection from inspection required by the “State Uniform Construction Code Act”, P.L.1975, c. 217 (C.52:27D-119 et seq.) or regulations adopted pursuant thereto.

The board may also exempt from the business permit provisions of this act such other electrical activities of like character which in the board's opinion warrant exclusion from the provisions of this act.

¹Section 45:5A-18.1.

45:5A-18.1. Definitions

As used in this amendatory and supplementary act:

- a. "Alarm business" means a partnership, corporation or other business entity engaged in the installation, servicing or maintenance of burglar or fire alarm systems, or the monitoring or responding to alarm signals when provided in conjunction therewith. "Installation" includes the survey of a premises, the design and preparation of the specifications for the equipment or system to be installed pursuant to a survey, the installation of the equipment or system, or the demonstration of the equipment or system after the installation is completed, but does not include any survey, design or preparation of specifications for equipment or for a system which is prepared by an engineer licensed pursuant to the provisions of P.L.1938, c. 342 (C.45:8-27 et seq.), or an architect licensed pursuant to the provisions of R.S. 45:3-1 et seq., if the survey, design, or preparation of specifications is part of a design for construction of a new building or premises or a renovation of an existing building or premises, which renovation includes components other than the installation of a burglar or fire alarm system.
- b. "Burglar alarm" means a security system comprised of an interconnected series of alarm devices or components, including systems interconnected with radio frequency signals, which emits an audible, visual or electronic signal indicating an alarm condition and providing a warning of intrusion, which is designed to discourage crime.
- c. "Fire alarm" means a security system comprised of an interconnected series of alarm devices or components, including systems interconnected with radio frequency signals, which emits an audible, visual or electronic signal indicating an alarm

condition and provides a warning of the presence of smoke or fire; except that “fire alarm” does not mean a system whose primary purpose is telecommunications with energy control, the monitoring of the interior environment being an incidental feature thereto.

- d. “Landscape irrigation contractor” means a person engaged in the installation, servicing, or maintenance of a landscape irrigation system.
- e. “Landscape irrigation system” means any assemblage of components, materials or special equipment which is designed, constructed and installed for controlled dispersion of water from any safe suitable source, including properly treated wastewater, for the purpose of irrigating landscape vegetation or the control of dust and erosion on landscape areas, including integral pumping systems or integral control systems for the manual, semiautomatic, or automatic control of the operation of these systems.

45:5A-19. Bond of contractor

In addition to such other bonds as may otherwise be required, any person engaged in the business of electrical contracting under the provisions of this act shall not undertake to do any electrical work in the State of New Jersey or any political subdivision thereof unless and until he shall have entered into bond in favor of the State of New Jersey in the sum of \$1,000.00, executed by a surety company authorized to transact business in the State of New Jersey, approved by the Department of Banking and Insurance, and to be conditioned on the faithful performance of the provisions of this act. The board shall, by rule and regulation, provide who shall be eligible to receive the financial protection afforded by said bond. The aforesaid bond shall be for the term of 24 months and must be renewed upon expiration for the ensuing 24 months.

45:5A-20. Repealed by L.1979, c. 432, § 1, eff. Feb. 14, 1980

45:5A-21. Engaging in business without permit; disorderly persons

Any person advertising or engaging in the business of electrical contracting without having a business permit from the board is a disorderly person.

45:5A-22. Repealed by L.1979, c. 432, § 1, eff. Feb. 14, 1980

45:5A-23. Fire Alarm, Burglar Alarm and Locksmith Advisory Committee; creation; membership; terms and vacancies; officers; compensation

a. There is created within the Division of Consumer Affairs in the Department of Law and Public Safety, under the Board of Examiners of Electrical Contractors, a “Fire Alarm, Burglar Alarm and Locksmith Advisory Committee.” The committee shall consist of 15 members who are residents of this State as follows:

- (1) Two members shall have been engaged in the alarm business in this State on a full-time basis for at least five consecutive years immediately preceding their appointments, shall be members of the New Jersey Burglar and Fire Alarm Association and, except for the members first appointed, shall be licensed under the provisions of section 7 of this act;
- (2) Five members shall be municipal officials, and shall include (a) a fire prevention officer; (b) a crime prevention officer; (c) a fire sub-code official; (d) a building inspector; and (e) a chief of police who is a member of the New Jersey Association of Chiefs of Police;
- (3) One member shall be a representative of the Division of State Police;
- (4) One member shall have been engaged in the alarm business in this State on a full-time basis for at least five consecutive years immediately preceding appointment, shall be a member of the Automatic Fire Alarm Association of New Jersey and, except for the member first ap-

- pointed, shall be licensed under the provisions of section 7 of this act;
- (5) Two members shall have been engaged as practicing locksmiths on a full-time basis for at least five consecutive years immediately preceding appointment, shall be members of a duly recognized professional locksmith association in New Jersey and, except for the members first appointed, shall be licensed as locksmiths under the provisions of section 7 of this act;
 - (6) One member shall have been engaged in the alarm business in this State on a full-time basis, shall be a member of both the New Jersey Burglar and Fire Alarm Association and a duly recognized professional locksmith association and, except for the member first appointed, be licensed under the provisions of section 7 of this act;
 - (7) One member shall have been engaged as a practicing locksmith in this State on a full-time basis for at least five consecutive years immediately preceding appointment, shall be a member of both the New Jersey Burglar and Fire Alarm Association and a duly recognized professional locksmith association and, except for the member first appointed, be licensed under the provisions of section 7 of this act;
 - (8) One member shall be a member of the International Brotherhood of Electrical Workers, A.F.L.-C.I.O; and
 - (9) One member shall be a public member who meets the requirements pertaining to public members set forth in subsection b. of section 2 of P.L.1971, c. 60 (C.45:1-2.2).
- b. The Governor shall appoint each member for a term of three years, except that of the members first appointed, five shall serve for terms of three years, five shall serve for terms of two years, and five shall serve for terms of one year.
 - c. Any vacancy in the membership of the committee shall be filled for the unexpired term in the manner provided for the original appointment. No member of the committee may serve more than two successive terms in addition to any unexpired

term to which he has been appointed.

- d. The committee shall annually elect from among its members a chair and vice-chair. The committee shall meet at least four times a year and may hold additional meetings as necessary to discharge its duties. In addition to such meetings, the committee shall meet at the call of the chair, the board, or the Attorney General.
- e. Members of the committee shall be compensated and reimbursed for actual expenses reasonably incurred in the performance of their official duties and reimbursed for expenses and provided with office and meeting facilities and personnel required for the proper conduct of the committee's business.
- f. The committee shall make recommendations to the board regarding rules and regulations pertaining to professional training, standards, identification and record-keeping procedures for licensees and their employees, classifications of licensure necessary to regulate the work of licensees, and other matters as necessary to effectuate the purposes of this act.

45:5A-24. Powers and duties regarding regulation of locksmiths, fire alarm, or burglar alarm businesses

The board shall have the following powers and duties, or may delegate them to the committee:

- a. To set standards and approve examinations for applicants for a fire alarm, burglar alarm or locksmith license and issue a license to each qualified applicant;
- b. To administer the examination to be taken by applicants for licensure;
- c. To determine the form and contents of applications for licensure, licenses and identification cards;
- d. To adopt a code of ethics for licensees;
- e. To issue and renew licenses and identification cards;
- f. To set the amount of fees for fire alarm, burglar alarm and locksmith licenses, license renewal, applications, examinations and other services provided by the board and committee, within the limits provided in subsection b. of section 11 of this act;
- g. To refuse to admit a person to an examination or refuse to

issue or suspend, revoke, or fail to renew the license of a fire alarm, burglar alarm, or locksmith licensee pursuant to the provisions of P.L.1978, c. 73 (C.45:1-14 et seq.);

- h. To maintain a record of all applicants for a license;
- i. To maintain and annually publish a record of every licensee, his place of business, place of residence and the date and number of his license;
- j. To take disciplinary action, in accordance with P.L.1978, c. 73 (C.45:1-14 et seq.) against a licensee or employee who violates any provision of this act or any rule or regulation promulgated pursuant to this act;
- k. To adopt standards and requirements for and approve continuing education programs and courses of study for licensees and their employees;
- l. To review advertising by licensees; and
- m. To perform such other duties as may be necessary to effectuate the purposes of this act.

45:5A-25. Engaging in alarm or locksmith business; licensure required

- a. No person shall advertise that he is authorized to engage in, or engage in the alarm business, or otherwise engage in the installation, service or maintenance of burglar alarm, fire alarm or electronic security systems unless he satisfies the requirements of this act.
- b. No person shall represent himself as qualified to provide, or otherwise provide locksmithing services unless he is licensed as a locksmith in accordance with the provisions of this act.

45:5A-26. Application for licensure; alarm or locksmith businesses or services

- a. Application for a license to engage in the alarm business or to provide locksmithing services, as the case may be, shall be made to the board in the manner and on the forms as the board, in consultation with the committee may prescribe.
 - (1) An application to engage in the alarm business shall include the name, age, residence, present and previous occupations of the applicant and, in the case of a busi-

ness firm engaged in the alarm business, of each member, officer or director thereof, the name of the municipality and the location therein by street number or other appropriate description of the principal place of business and the location of each branch office.

- (2) An application to engage in locksmithing services shall include the name, residence and principal business address of the applicant, or in the case of an employee, the principal business address of his employer.
- b. Every applicant shall submit to the board, together with the application, his photograph, in passport size, a list of all criminal offenses of which he has been convicted, setting forth the date and place of each conviction and the name under which he was convicted, if other than that on the application, and fingerprints of his two hands taken on standard fingerprint cards by a State or municipal law enforcement agency. Before approving an application, the board shall submit the fingerprints of the applicant to the Division of State Police in the Department of Law and Public Safety, for comparative analysis. The board is authorized to exchange fingerprint data with and receive criminal history record information from the Division of State Police and the Federal Bureau of Investigation for use in making the determinations required by this act. The applicant shall bear the cost for the criminal history record check. No license shall be issued to any applicant whose license has been revoked under the provisions of this act within five years of the date of filing of an application.
- c. If an applicant files with the board fingerprints of a person other than the applicant, he shall be guilty of a crime of the fourth degree and shall have his license application denied or license revoked.
- d. The board may require other information of the applicant and, if the applicant is proposing to qualify a business firm, of the business firm to determine the professional competence and integrity of the concerned parties.

45:5A-27. Alarm business; requirements for licensure

- a. An applicant seeking licensure to engage in the alarm business shall:
 - (1) Be at least 18 years of age;
 - (2) Be of good moral character, and not have been convicted of a crime of the first, second or third degree within 10 years prior to the filing of the application;
 - (3) Meet qualifications established by the board, in consultation with the committee, regarding experience, continuing education, financial responsibility and integrity; and
 - (4) Establish his qualifications to perform and supervise various phases of alarm installation, service and maintenance as evidenced by successful completion of an examination approved by the board, in consultation with the committee, except that any person engaged in the alarm business on the effective date of this act and filing an application within 120 days following the effective date of this act, shall not be required to submit evidence of the successful completion of the examination requirement if that person shows proof of having completed 40 hours of technical training prior to the effective date of this act, which training has been approved by the board, in consultation with the committee. No examination or training requirement shall apply to any person providing evidence of having been engaged in the alarm business for at least one year prior to the effective date of this act.
- b. An applicant seeking licensure as a locksmith shall:
 - (1) Be at least 18 years of age;
 - (2) Be of good moral character, and not have been convicted of a crime of the first, second or third degree within 10 years prior to the filing of the application;
 - (3) Present evidence to the board of having successfully completed any training and continuing education requirements established by the board, in consultation with the committee; and

- (4) Successfully complete a written examination approved by the board, in consultation with the committee to determine the applicant's competence to engage in locksmithing services, except that no examination requirement shall apply to any person engaged in locksmithing services who has practiced locksmithing services for at least one year prior to the effective date of this act and who files an application within 120 days following the effective date of this act.

45:5A-28. Locksmithing services; exempt activities

The provisions of this act regarding the practice of locksmithing services shall not apply to:

- a. The activities of any person performing public emergency services for a governmental entity if that person is operating under the direction or control of the organization by which he is employed;
- b. The activities of any sales representative who is offering a sales demonstration to licensed locksmiths;
- c. The activities of any automotive service dealer or lock manufacturer, or their agent or employee, while servicing, installing, repairing, or rebuilding locks from a product line utilized by that dealer or lock manufacturer;
- d. The activities of any member of a trade union hired to install any mechanical locking device as part of a new building construction or renovation project; and
- e. The activities of any person using any key duplicating machine or key blanks, except for keys marked "do not duplicate" or "master key."

45:5A-29. Exemption from licensure requirements; telephone utilities; cable television companies; electrical contractors

- a. Telephone utilities and cable television companies regulated by the Board of Regulatory Commissioners pursuant to Title 48 of the Revised Statutes and persons in their employ while performing the duties of their employment are exempt from the requirement of obtaining a license to engage in the alarm

business pursuant to this act.

- b. Electrical contractors regulated by the Board of Examiners of Electrical Contractors pursuant to P.L.1962, c. 162 (C.45:5A-1 et seq.) and persons in their employ while performing the duties of their employment are exempt from the requirement of obtaining a license to engage in the alarm business pursuant to this act.

45:5A-30. Issuance of locksmith license

Notwithstanding any other provision of this act to the contrary, the board shall, upon application with submission of satisfactory proof and payment of the prescribed fee, within six months following the effective date of this act, issue a locksmith license to:

- a. Any person who has successfully completed a locksmith apprenticeship program which has been approved by the Bureau of Apprenticeship and Training of the United States Department of Labor; or
- b. Any person who has been engaged full-time in the practice of locksmithing services for at least three years immediately prior to the date of his application for a locksmith's license.

45:5A-31. Renewal of alarm business or locksmith service licenses

- a. Licenses shall be issued to qualified applicants seeking licensure to engage in the alarm business or as a locksmith for a three-year period, upon payment of a licensing fee. License renewals shall be issued for a three-year period upon the payment of a renewal fee. A renewal application shall be filed with the board at least 45 days prior to expiration of a license. A license issued pursuant to this act shall not be transferable.
- b. Fees shall be established, prescribed or changed by the board, in consultation with the committee, to the extent necessary to defray all proper expenses incurred by the committee, the board and any staff employed to administer the provisions of this act, except that fees shall not be fixed at a level that will raise amounts in excess of the amount estimated to be so required. All fees and any fines imposed under this act shall be

paid to the board and shall be forwarded to the State Treasurer and become part of the General Fund.

45:5A-32. Engaging in locksmithing or alarm business;
required activities

- a. No licensee qualified under the provisions of this act shall engage in the alarm business or in the practice of locksmithing services, unless the licensee:
 - (1) Maintains at least one business office within the State or files with the board a statement, duly executed and sworn to before a person authorized by the laws of this State to administer oaths, containing a power of attorney constituting the board the true and lawful attorney of the licensee upon whom all original process in an action or legal proceeding against the licensee may be served and in which the licensee agrees that the original process that may be served upon the board shall be of the same force and validity as if served upon the licensee and that the authority thereof shall continue in force so long as the licensee engages in the alarm business or in the practice of locksmithing services, as the case may be, in this State;
 - (2) Clearly marks the outside of each installation and service vehicle to be used in conjunction with the alarm business with the alarm business name or the outside of each installation and service vehicle to be used in conjunction with locksmithing services with the locksmithing service's name;
 - (3) Maintains an emergency service number attended to on a 24-hour basis and responds appropriately to emergencies on a 24-hour basis when engaged in the alarm business; and
 - (4) Retains at all times general liability insurance in an amount determined by the board, in consultation with the committee, and insurance coverage or a surety bond in favor of the State of New Jersey in the sum of \$10,000, executed by a surety company authorized to transact business in the State of New Jersey and which is approved

by the Department of Banking and Insurance, and which is to be conditioned on the faithful performance of the provisions of this act. The board shall by rule or regulation provide who shall be eligible to receive the financial protection afforded by that bond and the bond shall be in full force and effect for the term of the license issued.

- b. Except in the case of an employee licensed as a locksmith, no licensed locksmith shall engage in locksmithing services unless that licensee maintains at least one business office within the State.

45:5A-33. Identification cards

- a. Every licensee and every employee or other person engaged in the unsupervised installation, servicing or maintenance of burglar alarm, fire alarm or electronic security systems shall, at all times during working hours, display an identification card issued by the board. The identification card shall contain the following information:
 - (1) the name, photograph and signature of the person to whom the card has been issued;
 - (2) the business name and address and license number of the licensee;
 - (3) the expiration date of the card; and
 - (4) that other information the board deems appropriate for identification purposes.
- b. Identification cards shall be issued for a three-year period which, in the case of a licensee, shall correspond to the term of the license period of the licensee. Application for renewal of an identification card for other than a licensee shall be made by the person named on the card at least 45 days prior to the expiration date of the card. The information provided on the identification card shall at all times be current, and the named holder of the card shall advise the board of any changes and file for issuance of an updated card within five days following occurrence of a change, which card shall be issued for the unexpired term of the original card.

- c. Identification cards shall not be transferable in the event of a change in employment.

45:5A-34. Employees of alarm business or locksmith licensees; requirements

No person shall be employed by a licensee to install, service or maintain a burglar alarm, fire alarm or electronic security system or, except in the case of a licensee, shall otherwise engage in the installation, service or maintenance thereof:

- a. unless the person is of good moral character; and
- b. where the work is to be performed other than under the field supervision of a licensee or a person qualified pursuant to the provisions of this section, unless the person shall have at least three years of practical experience and shall have successfully completed a course of study or a competency examination prescribed by the board, in consultation with the committee; except that an employee employed in the installation, servicing or maintenance of burglar alarm, fire alarm or electronic security systems by a license applicant filing an application within 120 days of the effective date of this act and identified as an employee on the application, shall not be required to satisfy the competency requirements of this subsection, until the first renewal of the employee's identification card.

45:5A-35. Alarm business or locksmith licensees; liability for acts of employees

- a. A licensee shall be responsible for any unlawful or unprofessional conduct by an employee, except that the conduct shall not be a cause for suspension or revocation of a license, unless the board determines that the licensee had knowledge thereof, or there is shown to have existed a pattern of unlawful or unprofessional conduct.
- b. Within 30 days of employing a person in connection with an alarm business or as a locksmith, a licensee shall notify the board and shall provide the board with the employee's photograph, in passport size, fingerprints of the employee's two hands taken on standard fingerprint cards by a State or mu-

nicipal law enforcement agency, a list of all criminal offenses, supplied by the employee, of which the employee has been convicted, setting forth the date and place of each conviction, and the name under which the employee was convicted, if other than that given in the written notification to the board and, if the work of the employee is not to be directly supervised, evidence of practical experience and professional competence in accordance with the requirements of subsection b. of section 14 of this act.

- c. If a licensee knowingly falsifies any information required by the board, the licensee shall be guilty of a crime of the fourth degree and shall have his license revoked.
- d. After confirming the information provided on an employee with the Division of State Police in the Department of Law and Public Safety and conducting other investigations as necessary, if the board determines that an employee is subject to the requirements of section 14 of this act and fails to satisfy those requirements, the board shall advise the licensee immediately of the employee's unfitness. The board is authorized to exchange fingerprint data with and receive criminal history record information from the Division of State Police and the Federal Bureau of Investigation for use in making the determinations required by this act. The employer shall bear the cost for the criminal history record check pursuant to this section. Employees hired by an alarm business through a recognized trade union on a temporary basis not to exceed six months or one project, whichever is greater, are exempt from the requirements of this act.

45:5A-36. Local regulation of locksmithing or alarm
 businesses prohibited

No municipality or county shall enact an ordinance or resolution or promulgate any rules or regulations relating to the licensing or registration of locksmiths or alarm businesses. The provisions of any ordinance or resolution or rules or regulations of any municipality or county relating to the licensing or registration of locksmiths or alarm businesses are superseded by the provisions of this act. Noth-

ing in this section shall be construed, however, to prohibit municipal regulation of door-to-door vendors or salespersons of burglar alarm, fire alarm or electronic security systems nor shall anything in this section be construed to prohibit or restrict municipal consideration of alarm business service proposals in consent proceedings under the “Cable Television Act,” P.L.1972, c. 186 (C.48:5A-1 et seq.).

45:5A-37. Licensure of persons holding valid licenses in other jurisdictions

If the board, after consultation with the committee, determines that an applicant holds a valid license from another jurisdiction which requires equal or greater experience and knowledge requirements, the board may accept evidence of that license as meeting the experience and knowledge requirements of this act for a person engaged in the alarm business or in the practice of locksmithing services.

45:5A-38. Adoption of rules and regulations; locksmith services and alarm businesses

The board, after consultation with the committee, shall adopt rules and regulations pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.) necessary to effectuate the purposes of this act.

New Jersey Statutes Annotated

Title 45, Chapter 1.

Uniform Enforcement Act

ARTICLE 1. GENERAL PROVISIONS RELATING TO ALL PROFESSIONS AND OCCUPATIONS AFFECTED BY THIS SUBTITLE

45:1-1. Persons entitled to practice, etc. under former laws unaffected

Any person now entitled to practice any profession or to engage in any occupation, governed or regulated by the provisions of this title by virtue of any prior law, shall continue to be entitled to practice or engage in the same, notwithstanding the enactment of this title, and the validity of any license or other authorization to practice any such profession or to engage in any such occupation, heretofore issued to any person under any prior law, or of any proceeding pending to obtain such a license or authorization shall not be affected by the enactment of this title but all such persons shall in all other respects be subject to the provisions of this title.

ARTICLE 2. GENERAL PROVISIONS RELATING TO CERTAIN STATE BOARDS OF REGISTRATION AND EXAMINATION

45:1-2. Repealed by L.1971, c.60, § 5, eff. March 25, 1971

45:1-2.1. Professional boards and commissions; application of act

The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners,

the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the New Jersey Real Estate Commission, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, and the State Board of Public Movers and Warehousemen.¹

¹ Abolition of State Board of Public Movers and Warehousemen and transfer of functions, powers and duties to the Division of Consumer Affairs. See Reorganization Plan No. 008-1998, set out under § 45:14D-4.

- 45:1-2.2. Appointment of members by governor; public members; member from department in executive branch; quorum; vote necessary for action
- a. All members of the several professional boards and commissions shall be appointed by the Governor in the manner prescribed by law; except in appointing members other than those appointed pursuant to subsection b. or subsection c., the Governor shall give due consideration to, but shall not be bound by, recommendations submitted by the appropriate professional organizations of this State.
 - b. In addition to the membership otherwise prescribed by law, the Governor shall appoint in the same manner as presently prescribed by law for the appointment of members, two additional members to represent the interests of the public, to be known as public members, to each of the following boards and commissions: The New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of

Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the New Jersey Real Estate Commission, the State Board of Shorthand Reporting, the State Board of Social Work Examiners, and the State Board of Veterinary Medical Examiners, and one additional public member to each of the following boards: the Board of Examiners of Electrical Contractors, the State Board of Marriage and Family Therapy Examiners, the State Board of Examiners of Master Plumbers, and the State Real Estate Appraiser Board. Each public member shall be appointed for the term prescribed for the other members of the board or commission and until the appointment of his successor. Vacancies shall be filled for the unexpired term only. The Governor may remove any such public member after hearing, for misconduct, incompetency, neglect of duty or for any other sufficient cause.

No public member appointed pursuant to this section shall have any association or relationship with the profession or a member thereof regulated by the board of which he is a member, where such association or relationship would prevent such public member from representing the interest of the public. Such a relationship includes a relationship with members of one's immediate family; and such association includes membership in the profession regulated by the board. To receive services rendered in a customary client relationship will not preclude a prospective public member from appointment. This paragraph shall not apply to individuals who are public members of boards on the effective date of this act.

It shall be the responsibility of the Attorney General to insure that no person with the aforementioned association or relationship or any other questionable or potential conflict of interest shall be appointed to serve as a public member of any board regulated by this section.

Where a board is required to examine the academic and professional credentials of an applicant for licensure or to test such applicant orally, no public member appointed pursuant to this section shall participate in such examination process; provided, however, that pub-

lic members shall be given notice of and may be present at all such examination processes and deliberations concerning the results thereof, and, provided further, that public members may participate in the development and establishment of the procedures and criteria for such examination processes.

- c. The Governor shall designate a department in the Executive Branch of the State Government which is closely related to the profession or occupation regulated by each of the boards or commissions designated in section 1 of P.L.1971, c.60 (C. 45:1-2.1) and shall appoint the head of such department, or the holder of a designated office or position in such department, to serve without compensation at the pleasure of the Governor as a member of such board or commission.
- d. A majority of the voting members of such boards or commissions shall constitute a quorum thereof and no action of any such board or commission shall be taken except upon the affirmative vote of a majority of the members of the entire board or commission.

45:1-2.3. Qualifications; rights and duties

Such additional members:

- a. Need not meet the educational and professional requirements for membership on such boards or commissions as provided in the several statutes establishing such boards and commissions; and
- b. Shall be voting members subject to the same rights, obligations and duties as other members of their respective boards or commissions.

45:1-2.4. Effect of act on term of member in office

Nothing in this act shall affect the right of a board or commission member in office on the effective date of this act to continue to serve for the term for which he was appointed.

45:1-2.5. Compensation and reimbursement of expenses of members; executive secretaries; compensation and terms of employment; offices and meeting places

With respect to the boards or commissions designated in section 1 of P.L.1971, c.60 (C.45:1-2.1), except as otherwise provided in subsection d. of this section, and notwithstanding the provisions of any other law:

- a. The officers and members shall be compensated on a per diem basis in the amount of \$25.00 or an amount to be determined by the Attorney General, with the approval of the State Treasurer, but not to exceed \$100.00 per diem or \$2,500.00 annually, and shall be reimbursed for actual expenses reasonably incurred in the performance of their official duties. Such moneys shall be paid according to rules and regulations promulgated by the Attorney General.
- b. The executive secretary shall receive such salary as shall be determined by the appointing authority within the limits of available appropriations and shall serve at its pleasure. Any such executive secretary who holds a certificate, license or registration issued by the board or commission by which he is employed shall not during such employment be permitted to engage in any profession or occupation regulated by the board or commission.
- c. The head of the department to which such board or commission is assigned shall maintain within any public building, whether owned or leased by the State, suitable quarters for the board's or commission's office and meeting place, provided that no such office or meeting place shall be within premises owned or occupied by an officer or member of such board or commission.
- d. The compensation schedule for members of boards and commissions provided in subsection a. of this section shall not apply to the members of the New Jersey Real Estate Commission, who shall be compensated pursuant to R.S.45:15-6 or to members of the State Board of Medical Examiners who shall receive compensation of \$150 per diem.

45:1-2.6. Inapplicability of act to rights under civil service or any pension law or retirement system

Nothing in this act shall deprive any person of any tenure rights or of any right or protection provided him by Title 11 of the Revised Statutes, Civil Service,¹ or any pension law or retirement system.

¹Now title 11A.

45:1-3. Expenses of boards paid from income; surplus paid to state treasurer; accounts

Each member of the boards mentioned in section 45:1-2¹ of this title shall be entitled to his actual traveling and other expenses incurred in the performance of his duties, which sum shall be paid from the license fees and other sources of income of such boards. Such boards shall also be entitled to expend from their income such sums as shall be necessary to defray all proper expenses incurred by them in the performance of their duties, including the compensation of any of their officers or agents whom they are authorized to compensate. Such boards, if authorized to collect an annual registration or license fee from persons licensed by them, may retain in their treasuries the fees so collected and use the same for the purpose of defraying the expenses of securing evidence against and prosecuting persons violating the provisions of the laws with the enforcement of which they are charged, or, in case the revenue of the boards from other sources shall be insufficient to pay the salary of their secretaries and their other expenses, such fees may be expended for such purposes. Such boards shall be entitled to retain, in addition to the above, at least one hundred dollars in their treasuries for the purpose of preparing and holding their examinations. On or before October thirty-first in each year such boards shall pay to the state treasurer all moneys remaining in their treasuries, except as above stated, which sum, when so paid, shall form a part of the state fund. Such boards shall keep accurate accounts of their receipts and expenditures, which accounts shall be subject to audit by the state comptroller.

¹Repealed; see, now, §§ 45:1-2.1, 45:1-2.2.

45:1-3.1. Application of act

The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the

New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, and the State Board of Social Work Examiners.

45:1-3.2. Charges for examinations, licensures and other services; establishment or change by rule; standards

Notwithstanding the provisions of Title 45 of the Revised Statutes or any other law to the contrary, any board or commission named in section 1 of this supplementary act ¹ may by rule establish, prescribe or change the charges for examinations, licensures and other services it performs, which rule shall first be approved by the head of the department to which such board or commission is assigned and shall be adopted in accordance with the provisions of the “Administrative Procedure Act,” P.L.1968, c.410 (C. 52:14B-1).

Any board’s or commission’s charges established, prescribed or changed pursuant to this section shall be established, prescribed or changed to such extent as shall be necessary to defray all proper expenses incurred by the board or commission in the performance of its duties but such charges shall not be fixed at a level that will raise amounts in excess of the amount estimated to be so required.

¹Section 45:1-3.1.

45:1-3.3. Administrative fees charged by boards; modification

The Director of the Division of Consumer Affairs may by rule establish, prescribe, or modify administrative fees charged by boards in accordance with the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.). For purposes of this section, “administrative fees” are charges assessed to licensees, registrants or holders of certificates, as the case may be, for board functions that are not unique to a particular board but are uniform throughout all boards. Administrative fees include, but are not limited to, fees for a duplicate or replacement license, certification or registration, late renewal fee, license reinstatement fee, and the fee for processing change of address.

45:1-4. Salary of secretary

The secretary of each of the boards mentioned in section 45:1-2¹ of this title, whether or not a member thereof, shall be entitled to receive such reasonable salary or compensation for his services as secretary as shall be fixed by such boards, which shall be paid by the boards from their receipts, unless an appropriation is made for the expenses of such boards, in which case the same shall be paid from such appropriation.

¹Repealed. See, now, §§ 45:1-2.1, 45:1-2.2.

45:1-5,

45:1-6. Repealed by L.1979, c.432, § 4, eff. Feb. 14, 1980

45:1-7. Professional or occupational licenses or certificates of registration; duration; expiration; exceptions; fees

Notwithstanding any of the provisions of Title 45 of the Revised Statutes or of any other law to the contrary, all professional or occupational licenses or certificates of registration, except such licenses or certificates issued to real estate brokers or salesmen pursuant to chapter 15 of Title 45, which prior to the effective date of this act were issued for periods not exceeding one year and were annually renewable, shall, on and after the effective date of this act, be issued for periods of two years and be biennially renewable, except that licenses and business permits issued to electrical contractors pursuant to chapter 5A of Title 45 shall be issued for periods of three

years and be triennially renewable; provided, however, the boards or commissions in charge of the issuance or renewal of such licenses or certificates may, in order to stagger the expiration dates thereof, provide that those first issued or renewed after the effective date of this act, shall expire and become void on a date fixed by the respective boards or commissions, not sooner than six months nor later than 29 months, after the date of issue.

The fees for the respective licenses and certificates of registration issued pursuant to this act for periods of less or greater than one year shall be in amounts proportionately less or greater than the fees established by law.

45:1-7.1. Application to holders of professional or occupational licenses

- a. Notwithstanding any other act or regulation to the contrary, the provisions of this section and sections 6 and 7 of P.L. 1999, c.403 (C.45:1-7.2 et al.) shall apply to every holder of a professional or occupational license or certificate of registration or certification issued or renewed by a board specified in section 2 of P.L. 1978, c. 73 (C.45:1-15), who seeks renewal of that license or certificate.
- b. Every holder of a professional or occupational license or certificate of registration or certification, issued or renewed by a board specified in section 2 of P.L. 1978, c.73 (C.45:1-15), who seeks renewal shall submit a renewal application and pay a renewal fee prior to the date of expiration of the license or certificate of registration or certification. If the holder does not renew the license or certificate prior to its expiration date, the holder may renew it within 30 days of its expiration date by submitting a renewal application and paying a renewal fee and a late fee. Any professional or occupational license or certificate of registration or certification not renewed within 30 days of its expiration date shall be suspended without a hearing.
- c. Any individual who continues to practice with an expired license or certificate of registration or certification after 30 days following its expiration date shall be deemed to be engaged

in unlicensed practice of the regulated profession or occupation, even if no notice of suspension has been provided to the individual.

- d. A professional or occupational license or certificate of registration or certification suspended pursuant to this section may be reinstated within five years following its date of expiration upon submission of a renewal application and payment of an additional reinstatement fee. An applicant seeking reinstatement of a license or certificate suspended pursuant to this section more than five years past its expiration date shall successfully complete the examination required for initial licensure, registration or certification and submit a renewal application and payment of an additional reinstatement fee.
- e. A board specified in section 2 of P.L. 1978, c.73 (C. 45:1-15) shall send a notice of renewal to each of its holders of a professional or occupational license or certificate of registration or certification, as applicable, at least 60 days prior to the expiration of the license or certificate. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew.

45:1-7.2. Reinstatement

A board may reinstate the professional or occupational license or certificate of registration or certification of an applicant whose license or certificate has been suspended pursuant to section 5 of P.L.1999, c.403 (C.45:1-7.1), provided that the applicant otherwise qualifies for licensure, registration or certification and submits the following upon application for reinstatement:

- a. Payment of all past delinquent renewal fees;
- b. Payment of a reinstatement fee;
- c. An affidavit of employment listing each job held during the period of suspended license, registration or certification which includes the names, addresses, and telephone numbers of each employer; and
- d. If applicable, satisfactory proof that the applicant has maintained proficiency by completing the continuing education

hours or credits required for the renewal of an active license or certificate of registration or certification.

45:1-7.3. Renewal applications

- a. Renewal applications for all professional or occupational licenses or certificates of registration or certification shall provide the applicant with the option of either active or inactive renewal. A renewal applicant electing to renew as inactive shall not engage in professional or occupational practice within the State.
- b. An applicant who selects the inactive renewal option shall remain on inactive status for the entire renewal period unless, upon application to the board, the board permits the inactive applicant to return to active status provided such applicant presents satisfactory proof that he has maintained proficiency by completing the continuing education hours or credits required for the renewal of an active license, registration or certification, if applicable.

45:1-8. Contractors; application of § 45:1-9

The provisions of this act apply to the following classes of contractors:

- a. Tree experts, certified pursuant to P.L.1940, c.100 (C. 13:1-28 et seq.¹);
- b. Home repair contractors, licensed pursuant to P.L.1960, c.41 (C. 17:16C-62 et seq.);
- c. Electrical contractors, licensed pursuant to P.L.1962, c.162 (C. 45:5A-1 et seq.);
- d. Master plumbers, licensed pursuant to P.L.1968, c. 362 (C. 45:14C-1 et seq.);
- e. Well drillers, licensed pursuant to P.L.1947, c.377 (C. 58:4A-5 et seq.); and
- f. Any class of contractors who hereafter are licensed by the State.

¹Renumbered C. 45:15C-1 to 45:15C-10.

45:1-9. Indication of license or certificate number on contracts, bids and advertisements

Any contractor licensed by the State shall indicate his license or certificate number on all contracts, subcontracts, bids and all forms of advertising as a contractor.

45:1-10. Disclosure of laboratory payments on bills to patients and third party payors

It shall be unlawful for any person licensed in the State of New Jersey to practice medicine or surgery, dentistry, osteopathy, podiatry or chiropractic to agree with any clinical, bio-analytical or hospital laboratory, wheresoever located, to make payments to such laboratory for individual tests, combination of tests, or test series for patients unless such person discloses on the bills to patients and third party payors the name and address of such laboratory and the net amount or amounts paid or to be paid to such laboratory for individual tests, combination of tests or test series.

45:1-10.1. Claims for third party payment; licensed health care professional; responsibility for filing

Effective 12 months after the adoption of regulations establishing standard health care enrollment and claim forms by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c.154 (C.17B:30-23), a health care professional licensed pursuant to Title 45 of the Revised Statutes is responsible for filing all claims for third party payment, including claims filed on behalf of the licensed professional's patient for any health care service provided by the licensed professional that is eligible for third party payment, except that at the patient's option, the patient may file the claim for third party payment.

- a. In the case of a claim filed on behalf of the professional's patient, the professional shall file the claim within 60 days of the last date of service for a course of treatment, on the standard claim form adopted by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c.154 (C.17B:30-23).
- b. In the case of a claim in which the patient has assigned his benefits to the professional, the professional shall file the claim

within 180 days of the last date of service for a course of treatment, on the standard claim form adopted by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c.154 (C.17B:30-23). If the professional does not file the claim within 180 days of the last date of service for a course of treatment, the third party payer shall reserve the right to deny payment of the claim, in accordance with regulations established by the Commissioner of Banking and Insurance, and the professional shall be prohibited from seeking any payment directly from the patient.

- (1) In establishing the standards for denial of payment, the Commissioner of Banking and Insurance shall consider the good faith use of information provided by the patient to the professional with respect to the identity of the patient's third party payer, delays in filing a claim related to coordination of benefits between third party payers and any other factors the commissioner deems appropriate, and, accordingly, shall define specific instances where the sanctions permitted pursuant to this subsection shall not apply.
 - (2) A professional who fails to file a claim within 180 days and whose claim for payment has been denied by the third party payer in accordance with this subsection may, in the discretion of a judge of the Superior Court, be permitted to refile the claim if the third party payer has not been substantially prejudiced thereby. Application to the court for permission to refile a claim shall be made within 14 days of notification of denial of payment and shall be made upon motion based upon affidavits showing sufficient reasons for the failure to file the claim with the third party payer within 180 days.
- c. The provisions of this section shall not apply to any claims filed pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.).
 - d. A health care professional who violates the provisions of subsection a. of this section may be subject to a civil penalty of \$250 for each violation plus \$50 for each day after the 60th day that the provider fails to submit a claim. The penalty shall

be sued for and collected by the Division of Consumer Affairs in the Department of Law and Public Safety pursuant to “the penalty enforcement law,” N.J.S.2A:58-1 et seq.

45:1-11. Violations; penalty

Any person violating this act shall be guilty of a misdemeanor.

45:1-12. Podiatrist, optometrist or psychologist or professional service corporation; charge for completion of claim form for health insurance; fine; collection and enforcement

No podiatrist, optometrist or psychologist and no professional service corporation engaging in the practice of podiatry, optometry or psychology in this State shall charge a patient an extra fee for services rendered in completing a medical claim form in connection with a health insurance policy. Any person violating this act shall be subject to a fine of \$100.00 for each offense.

Such penalty shall be collected and enforced by summary proceedings pursuant to the Penalty Enforcement Law (N.J.S. 2A:58-1 et seq.). The Superior Court and municipal court shall have jurisdiction within its territory of such proceedings. Process shall be either in the nature of a summons or warrant and shall issue in the name of the State, upon the complaint of the State Board of Medical Examiners with respect to podiatrists, the New Jersey State Board of Optometry for optometrists or the State Board of Psychological Examiners for psychologists.

45:1-13. Repealed by L.1999, c.403, § 12, eff. Jan. 18, 2000

45:1-14. Legislative findings and declarations; liberal construction of act

The Legislature finds and declares that effective implementation of consumer protection laws and the administration of laws pertaining to the professional and occupational boards located within the Division of Consumer Affairs require uniform investigative and enforcement powers and procedures and uniform standards for license revocation, suspension and other disciplinary proceedings by such boards. This act is deemed remedial, and the provisions hereof should be afforded a liberal construction.

45:1-15. Boards and professions or occupations regulated by or through such boards; application of act

The provisions of this act shall apply to the following boards and all professions or occupations regulated by, through or with the advice of those boards: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, the State Board of Physical Therapy, the Professional Counselor Examiners Committee, the New Jersey Cemetery Board, the Orthotics and Prosthetics Board of Examiners, the Occupational Therapy Advisory Council, the Electrologists Advisory Committee, the Alcohol and Drug Counselor Committee, the Fire Alarm, Burglar Alarm, and Locksmith Advisory Committee, the Home Inspection Advisory Committee, the Massage, Bodywork and Somatic Therapy Examining Committee, and the Audiology and Speech-Language Pathology Advisory Committee.

45:1-15.1. Rules and regulations

Consistent with their enabling acts, P.L.1978, c.73 (C.45:1-14 et seq.) and the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), the boards and others set forth in section 2 of P.L.1978, c.73 (C.45:1-15) are authorized to adopt rules and regulations to serve the public health, safety and welfare.

45:1-16. Definitions

As used within this act the following words or terms shall have the indicated definition unless the context clearly indicates otherwise.

“Board” means any professional or occupational licensing board designated in section 2 of this act.¹

“Director” means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

“Person” means any natural person or his legal representative, partnership, corporation, company, trust, business entity or association, and any agent, employee, salesman, partner, officer, director, member, stockholder, associate, trustee or cestuis que trust thereof.

¹Section 45:1-15.

45:1-17. Powers of Attorney General to implement act and administer law enforcement activities of boards

In implementing the provisions of this act and administering the law enforcement activities of those professional and occupational boards located within the Division of Consumer Affairs, the Attorney General may:

- a. After advice to the board or boards in question of his intent to proceed under this section, and the specific action he intends to take, and the failure of such board or boards to take steps in accordance with the advice of the Attorney General within 30 days of receipt of such advice, promulgate rules and regulations consistent with the provisions of this act and the Administrative Procedure Act, P.L.1968, c.410 (C. 52:14B-1 et seq.) governing the procedure for administrative hearings before all boards within the Division of Consumer Affairs. Such rules and regulations shall govern administrative complaints, answers thereto, issuance of subpoenas, appointment of hearing examiners, adjournments, submission of proposed findings of fact and conclusions of law, the filing of briefs, and such other procedural aspects of administrative hearings before the boards as the Attorney General may deem necessary; provided, however, nothing herein authorized shall be construed to require the Attorney General to promulgate rules regarding prehearing investigative procedures.

- b. After advice to the board or boards in question of his intent to proceed under this section, and the specific action he intends to take, and the failure of such board or boards to take steps in accordance with the advice of the Attorney General within 30 days of receipt of such advice, promulgate substantive rules and regulations consistent with the provisions of any statute governing the activities of any licensing agency, board or committee located within the Division of Consumer Affairs, which shall be limited to disciplinary matters and arbitrary restrictions on initial licensure. In addition to promulgating such rules and regulations, the Attorney General may direct that any proposed or existing regulation be amended, abandoned or repealed. Prior to the final adoption of any regulation affecting the activities of any professional or occupational licensing agency, board or committee located within the division and prior to the issuance of any directive to amend, abandon or repeal any regulation, the Attorney General or his designee shall first consult with the agency, board or committee whose activities are affected regarding the proposed action.
- c. After a full consideration of all relevant facts and the applicable law, may direct the initiation of any appropriate enforcement action by a professional or occupational licensing board or set aside, modify or amend, as may be necessary, any action or decision of a licensing agency, board or committee located within the Division of Consumer Affairs; provided, however, no such action shall be directed by the Attorney General in reviewing the action or decision of an agency, board or committee unless such action or decision is contrary to applicable law.

45:1-18. Investigative powers of boards, director or attorney general

Whenever it shall appear to any board, the director or the Attorney General that a person has engaged in, or is engaging in any act or practice declared unlawful by a statute or regulation administered by such board, or when the board, the director or the Attorney General shall deem it to be in the public interest to inquire whether any such

violation may exist, the board or the director through the Attorney General, or the Attorney General acting independently, may exercise any of the following investigative powers:

- a. Require any person to file on such form as may be prescribed, a statement or report in writing under oath, or otherwise, as to the facts and circumstances concerning the rendition of any service or conduct of any sale incidental to the discharge of any act or practice subject to an act or regulation administered by the board;
- b. Examine under oath any person in connection with any act or practice subject to an act or regulation administered by the board;
- c. Inspect any premises from which a licensed profession or occupation is conducted;
- d. Examine any goods, ware or item used in the rendition of any professional or occupational service;
- e. Examine any record, book, document, account or paper maintained by or for any professional or occupational licensee in the regular course of practicing such profession or engaging in such occupation;
- f. For the purpose of preserving evidence of an unlawful act or practice, pursuant to an order of the Superior Court, impound any record, book, document, account, paper, goods, ware, or item used or maintained by or for any board licensee in the regular course of practicing such profession or engaging in such occupation. In such cases as may be necessary, the Superior Court may, on application of the Attorney General, issue an order sealing items or material subject to this subsection.

In order to accomplish the objectives of this act or any act or regulation administered by a board, the Attorney General may hold such investigative hearings as may be necessary and may issue subpoenas to compel the attendance of any person or the production of books, records or papers at any such hearing or inquiry.

45:1-19. Failure or refusal to file statement or report, refusal of access to premises or failure to obey subpoena; penalty

If any person shall fail or refuse to file any statement or report or refuse access to premises from which a licensed profession or occupation is conducted in any lawfully conducted investigative matter or fail to obey a subpoena issued pursuant to this act, the Attorney General may apply to the Superior Court and obtain an order:

- a. Adjudging such person in contempt of court; or
- b. Granting such other relief as may be required; or
- c. Suspending the license of any such person unless and until compliance with the subpoena or investigative demand is effected.

45:1-20. Compelling testimony or production of book, paper or document; immunity from prosecution

If any person shall refuse to testify or produce any book, paper, or other document in any proceeding under this act for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him, convict him of a crime, or subject him to a penalty or forfeiture, and shall, notwithstanding, be directed to testify or to produce such book, paper, or document by the Attorney General, he shall comply with such direction.

A person who is entitled by law to, and does assert such privilege, and who complies with such direction of the Attorney General shall not thereafter be prosecuted or subjected to any penalty or forfeiture in any criminal proceeding which arises out of and relates to the subject matter of the proceeding. No person so testifying shall be exempt from prosecution or punishment for perjury or false swearing committed by him in giving such testimony or from any civil or administrative action arising from such testimony.

45:1-21. Grounds for refusal to admit to examination or denial, suspension or revocation of any certificate, registration or license; definitions

A board may refuse to admit a person to an examination or may refuse to issue or may suspend or revoke any certificate, registration or license issued by the board upon proof that the applicant or holder of such certificate, registration or license.

- a. Has obtained a certificate, registration, license or authorization to sit for an examination, as the case may be, through fraud, deception, or misrepresentation;
- b. Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;
- c. Has engaged in gross negligence, gross malpractice or gross incompetence which damaged or endangered the life, health, welfare, safety or property of any person;
- d. Has engaged in repeated acts of negligence, malpractice or incompetence;
- e. Has engaged in professional or occupational misconduct as may be determined by the board;
- f. Has been convicted of, or engaged in acts constituting, any crime or offense involving moral turpitude or relating adversely to the activity regulated by the board. For the purpose of this subsection a judgment of conviction or a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction;
- g. Has had his authority to engage in the activity regulated by the board revoked or suspended by any other state, agency or authority for reasons consistent with this section;
- h. Has violated or failed to comply with the provisions of any act or regulation administered by the board;
- i. Is incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare;
- j. Has repeatedly failed to submit completed applications, or parts of, or documentation submitted in conjunction with, such applications, required to be filed with the Department of Environmental Protection;
- k. Has violated any provision of P.L.1983, c.320 (C.17:33A-1 et seq.) or any insurance fraud prevention law or act of another jurisdiction or has been adjudicated, in civil or administrative proceedings, of a violation of P.L.1983, c.320 (C.17:33A-1 et seq.) or has been subject to a final order, entered in civil or administrative proceedings, that imposed civil penalties under that act against the applicant or holder;

- l. Is presently engaged in drug or alcohol use that is likely to impair the ability to practice the profession or occupation with reasonable skill and safety. For purposes of this subsection, the term “presently” means at this time or any time within the previous 365 days;
- m. Has prescribed or dispensed controlled dangerous substances indiscriminately or without good cause, or where the applicant or holder knew or should have known that the substances were to be used for unauthorized consumption or distribution;
- n. Has permitted an unlicensed person or entity to perform an act for which a license or certificate of registration or certification is required by the board, or aided and abetted an unlicensed person or entity in performing such an act;
- o. Advertised fraudulently in any manner.

For purposes of this act:

“Completed application” means the submission of all of the information designated on the checklist, adopted pursuant to section 1 of P.L.1991, c. 421 (C.13:1D-101), for the class or category of permit for which application is made.

“Permit” has the same meaning as defined in section 1 of P.L.1991, c. 421 (C.13:1D-101).

45:1-21.1. Annual summary of compliance information and attendance at continuing education seminars; costs; information deemed public records

- a. A board obtaining information from the Department of Environmental Protection pursuant to section 1 of P.L.1991, c.418 (C. 13:1D-110) on the compliance of a member of a regulated profession with the requirements for completed applications of the department, shall annually develop a detailed written summary of the information gathered by the department pursuant to P.L.1991, c.418 (C. 13:1D-110) regarding compliance with the department’s requirements for completed applications and attendance records for continuing education seminars required to be filed with the department pursuant to section 2 of P.L.1991, c.419 (C. 13:1D-117).

- b. Any reasonable costs incurred in preparation of the report required pursuant to this section may be included in the charges authorized pursuant to P.L.1974, c.46 (C. 45:1-3.2).
- c. Information required to be compiled by a board pursuant to this section, shall be deemed to be public records subject to the requirements of P.L.1963, c.73 (C. 47:1A-1 et seq.).

45:1-21.2. Suspension of certain licenses; hearing

The director or a board shall suspend, as appropriate, after a hearing, the license, registration or certification of any person who has been certified by a lender or guarantor and reported to the director or the board, as the case may be, for nonpayment or default of a State or federal direct or guaranteed educational loan. The license, registration or certification shall not be reissued until the person provides the director or board with a written release issued by the lender or guarantor stating that the person has cured the default or is making payments on the loan in accordance with a repayment agreement approved by the lender or guarantor. If the person has continued to meet all other requirements for licensure, registration or certification during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director or the board may impose.

45:1-22. Additional or alternative penalties to revocation, suspension or refusal to renew; temporary order suspending or limiting license; subpoena

In addition or as an alternative, as the case may be, to revoking, suspending or refusing to renew any license, registration or certificate issued by it, a board may, after affording an opportunity to be heard:

- a. Issue a letter of warning, reprimand, or censure with regard to any act, conduct or practice which in the judgment of the board upon consideration of all relevant facts and circumstances does not warrant the initiation of formal action;
- b. Assess civil penalties in accordance with this act;
- c. Order that any person violating any provision of an act or regulation administered by such board to cease and desist from future violations thereof or to take such affirmative correc-

tive action as may be necessary with regard to any act or practice found unlawful by the board;

- d. Order any person found to have violated any provision of an act or regulation administered by such board to restore to any person aggrieved by an unlawful act or practice, any moneys or property, real or personal, acquired by means of such act or practice; provided, however, no board shall order restoration in a dollar amount greater than those moneys received by a licensee or his agent or any other person violating the act or regulation administered by the board;
- e. Order any person, as a condition for continued, reinstated or renewed licensure, to secure medical or such other professional treatment as may be necessary to properly discharge licensee functions.

A board may, upon a duly verified application of the Attorney General that either provides proof of a conviction of a court of competent jurisdiction for a crime or offense involving moral turpitude or relating adversely to the regulated profession or occupation, or alleges an act or practice violating any provision of an act or regulation administered by such board, enter a temporary order suspending or limiting any license issued by the board pending plenary hearing on an administrative complaint; provided, however, no such temporary order shall be entered unless the application made to the board palpably demonstrates a clear and imminent danger to the public health, safety and welfare and notice of such application is given to the licensee affected by such order.

In any administrative proceeding commenced on a complaint alleging a violation of an act or regulation administered by a board, such board may issue subpoenas to compel the attendance of witnesses or the production of books, records, or documents at the hearing on the complaint.

45:1-23. Summary proceeding in Superior Court; injunction; orders necessary to prevent unlawful practice or remedy past unlawful activity

Whenever it shall appear to a board, the director or the Attorney General that a violation of any act, including the unlicensed practice of the regulated profession or occupation, or regulation administered

by such board has occurred, is occurring, or will occur, the Attorney General, in addition to any other proceeding authorized by law, may seek and obtain in a summary proceeding in the Superior Court an injunction prohibiting such act or practice. In any such proceeding the court may assess a civil penalty in accordance with the provisions of this act, order restoration to any person in interest of any moneys or property, real or personal, acquired by means of an unlawful act or practice and may enter such orders as may be necessary to prevent the performance of an unlawful practice in the future and to fully remedy any past unlawful activity. In any action brought pursuant to this section, the court shall not suspend or revoke any license issued by a board.

45:1-24. Failure to comply with order of board directing payment of penalties or restoration of moneys or property; enforcement

Upon the failure of any person to comply within 10 days after service of any order of a board directing payment of penalties or restoration of moneys or property, the Attorney General or the secretary of such board may issue a certificate to the Clerk of the Superior Court that such person is indebted to the State for the payment of such penalty and the moneys or property ordered restored. A copy of such certificate shall be served upon the person against whom the order was entered. Thereupon the clerk shall immediately enter upon his record of docketed judgments the name of the person so indebted and of the State, a designation of the statute under which the penalty is imposed, the amount of the penalty imposed, and amount of moneys ordered restored, a listing of property ordered restored, and the date of the certification. Such entry shall have the same force and effect as the entry of a docketed judgment in the Superior Court, and the Attorney General shall have all rights and remedies of a judgment creditor in addition to exercising any other available remedies. Such entry, however, shall be without prejudice to the right of appeal to the Appellate Division of the Superior Court from the board's order.

An action to enforce the provisions of any order entered by a board or to collect any penalty levied thereby may be brought in any municipal court or the Superior Court in summary manner pursuant

to the Penalty Enforcement Act, (N.J.S. 2A:58-1 et seq.) and the rules of court governing the collection of civil penalties. Process in such action shall be by summons or warrant, and in the event that the defendant fails to answer such action, the court shall issue a warrant for the defendant's arrest for the purpose of bringing such person before the court to satisfy any order entered.

45:1-25. Violations; civil penalty; action to collect or enforce

Any person who engages in any conduct in violation of any provision of an act or regulation administered by a board shall, in addition to any other sanctions provided herein, be liable to a civil penalty of not more than \$10,000 for the first violation and not more than \$20,000 for the second and each subsequent violation. For the purpose of construing this section, each act in violation of any provision of an act or regulation administered by a board shall constitute a separate violation and shall be deemed a second or subsequent violation under the following circumstances:

- (1) an administrative or court order has been entered in a prior, separate and independent proceeding;
 - (2) the person is found within a single proceeding to have committed more than one violation of any provision of an act or regulation administered by a board; or
 - (3) the person is found within a single proceeding to have committed separate violations of any provision of more than one act or regulation administered by a board.
- b. In lieu of an administrative proceeding or an action in the Superior Court, the Attorney General may bring an action in the name of any board for the collection or enforcement of civil penalties for the violation of any provision of an act or regulation administered by such board. Such action may be brought in summary manner pursuant to "the penalty enforcement law" (N.J.S. 2A:58-1 et seq.) and the rules of court governing actions for the collection of civil penalties in the municipal court where the offense occurred. Process in such action may be by summons or warrant and in the event that the defendant in such action fails to answer such action, the court shall, upon finding an unlawful act or practice to have been committed by the de-

fendant, issue a warrant for the defendant's arrest in order to bring such person before the court to satisfy the civil penalties imposed. In any action commenced pursuant to this section, the court may order restored to any person in interest any monies or property acquired by means of an unlawful act or practice.

- c. Any action alleging the unlicensed practice of a profession or occupation shall be brought pursuant to this section or, where injunctive relief is sought, by an action commenced in the Superior Court. In any action brought pursuant to this act, a board or the court may order the payment of costs for the use of the State, including, but not limited to, costs of investigation, expert witness fees and costs, attorney fees and costs, and transcript costs.

45:1-26. Repeal of inconsistent acts and parts of acts

All acts and parts of acts inconsistent with this act are hereby superseded and repealed.

45:1-27. Severability

If any provision of this law or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the law which can be given effect without the invalid provision or application, and to this end the provisions of this law are severable.

New Jersey Administrative Code

Title 13, Chapter 31.

Board of Examiners of Electrical Contractors Regulations

SUBCHAPTER 1. GENERAL RULES AND REGULATIONS

13:31-1.1 Board meetings; quorum

- (a) Regular Board meetings shall be held in accordance with a schedule that is published yearly and filed with the Secretary of State.
- (b) Special meetings may be held at the request of a Board member or called by the Chairman with publication of appropriate notice pursuant to the requirements of the Open Public Meetings Act.
- (c) A majority of the voting members of the Board shall constitute a quorum thereof and no action of the Board shall be taken except on the affirmative vote of a majority of the members of the entire Board.
- (d) In the absence of the chairman, members shall select one of the members attending the meeting to serve as chairman for that meeting.

13:31-1.2 Qualifications of applicants

- (a) Applicants for examination for a license as an electrical contractor shall present proof satisfactory to the Board that the applicant:
 - 1. Is over the age of 21 years;
 - 2. Holds a high school diploma or equivalency certificate; and
 - 3. Has had, immediately preceding the making of the application, at least five years of hands-on experience working with tools in the installation, alteration, or repair of wiring for electric light, heat or power, which work shall have been done in compliance with the National Electrical Code. Hands-on experience shall not include time spent in supervising, engineering, estimating and other

managerial tasks. Hands-on experience means that the applicant has:

- i. Completed a four-year apprenticeship program approved by _____ both a Federal agency and a Federally certified state agency recognized by the Board and at least one year of hands-on experience acceptable to the Board. A certificate of completion issued by the apprenticeship program shall be submitted with the application for the electrical contractor's examination as well as proof of the additional year of hands on experience; or
- ii. Met the definition of a qualified journeyman electrician. The applicant shall submit proof of having satisfied the definition of N.J.A.C. 13:31-1.4(b);
- iii. Earned a bachelor's degree in electrical engineering and completed two years of hands-on experience acceptable to the Board; or
- iv. Provided proof of the necessary education and five years of hands-on experience gathered through an alternative means.

13:31-1.3 Examinations

- (a) The Board examination shall be the National Electrical Contractor Licensing Examination developed by the National Assessment Institute of College Park, Maryland.
- (b) An applicant must obtain a passing grade on the National Electrical Contractor Licensing Examination. Any applicant who fails to pass the Board examination shall not be eligible to retake the examination for six months from the date of such failure.
- (c) An applicant shall complete all required application forms and questionnaires supplied by the Board. Examinations shall be held at least four times a year. Information about scheduled examinations and deadlines for submissions of completed applications including appropriate fees may be obtained from the Board offices at Post Office Box 45006, Newark, New Jersey 07101.

13:31-1.4 Definitions

- (a) Minor repair work within the meaning of N.J.S.A. 45:5A-18(a) shall include, without limitation, the replacement of lamps and fuses operating at less than 150 volts to ground with a like or similar item.
- (b) “Qualified journeyman electrician” as used in N.J.S.A. 45:5A-18(k) shall mean and include any person who is either:
 - 1. The holder of a current valid license to practice electrical contracting issued by the Board;
 - 2. A person who has acquired 8,000 hours of practical experience working with tools in the installation, alteration or repair of wiring for electric light, heat or power and who has had a minimum of 576 classroom hours of related instruction. The requirement of practical experience shall not include time spent in supervising, engineering, estimating and other managerial tasks; or
 - 3. A person who can demonstrate to the satisfaction of the Board that he or she has gathered the required experience through alternative means.
- (c) “Regular employee” as used in N.J.S.A. 45:5A-18(l) shall mean an individual who receives a regular salary for the performance of functions which include, but are not necessarily exclusively limited to, those associated with the installation, repair and maintenance of electrical work for the State, county, municipality, or school district which occupies the premises on which such work is done.

13:31-1.5 Bonds

An action may be maintained on the bond required by N.J.S.A. 45:5A-19 by any person injured, aggrieved or damaged through the failure of the obligor to perform the duties prescribed for electrical contractors under the provisions of N.J.S.A. 45:5A-1, et seq. or any rule of the Board.

13:31-1.6 Familiarity with laws

Electrical contractors and business permit holders shall be familiar with all general and special Federal, State and municipal laws, ordinances and regulations pertaining to the business of electrical contracting and those employed or engaged therein.

13:31-1.7 Worker's compensation

- (a) Business permit holders shall obtain the worker's compensation insurance required by the laws of this State covering employees employed by the business permit holder or his subcontractor. Business permit holders shall keep a certificate of insurance evidencing such coverage on file with the Board.
- (b) Business permit holders shall be responsible for ensuring all temporary employees in their employ have the required worker's compensation coverage.

13:31-1.8 Work standards and inspections

- (a) Every licensee who performs or supervises the installation, erection, repair or alteration of electrical equipment for the generation, transmission or utilization of electrical energy subject to "The Electrical Contractors Licensing Act of 1962" (N.J.S.A. 45:5A-1 et seq.) shall assure that the work performed conforms to the standards of the National Electrical Code in effect at the time the work is performed.
- (b) Every licensee who performs or supervises work described in (a) above shall, within a reasonable time after completion of the work, secure an inspection of the completed work in conformity with the State Uniform Construction Code Act, N.J.S.A. 52:27D-119 et seq., and the Uniform Construction Code, N.J.A.C. 5:23-1.1 et seq.
- (c) Every such licensee shall be responsible for correcting, within a reasonable time and at no additional charge to the customer, any Code violation discovered in the work performed or supervised by the licensee.
- (d) Failure to comply with (a), (b) or (c) above shall be deemed occupational misconduct within the meaning of N.J.S.A. 45:1-21(e).

13:31-1.9 Identification of licensees, permittee and qualified journeyman electricians

- (a) All vehicles utilized for the installation or repair of electrical equipment shall be visibly marked with the company name, the license number and the business permit number.

- (b) All business correspondence and advertising shall display the license or business permit number.
- (c) No licensee shall perform electrical contracting work without having in his possession a business permit identification as provided in N.J.S.A. 45:5A-9.
- (d) Upon request, the Board of Examiners of Electrical Contractors will issue a qualified journeyman electrician identification card to an individual who satisfies the definition of N.J.A.C. 13:31-1.4(b)1, 2 or 3 and requests such a card. The fee, as set forth in N.J.A.C. 13:31-1.11, shall be payable only one time.

13:31-1.10 Requirement of pressure seal defined

- (a) At the time of the issuance of the license or as soon thereafter as deemed appropriate, the Board of Examiners of Electrical Contractors shall furnish a seal to every State-licensed electrical contractor. The cost of the seal shall be paid for by the State-licensed electrical contractor to whom it is issued. The seal shall be used exclusively by the State-licensed electrical contractor in the conduct of his practice. The State-licensed electrical contractor is required to impress the said seal upon all applications for electrical inspection by the appropriate duly licensed State inspection agency.
- (b) No person, other than the electrical contractor to whom the license and business permit shall have been issued by this board, shall have the right to use the aforesaid seal. Any violation of this provision shall subject, first, the person wrongfully using the seal, and secondly, the licensee who willfully or negligently allows such unlicensed and unauthorized person to use said seal to such penalties and sanctions as shall be imposed by the board pursuant to authority granted by N.J.S.A. 45:5A-1 et seq. and N.J.S.A. 45:1-14 et seq.
- (c) A licensee whose license is suspended or revoked as a result of either a disciplinary order or a failure to pay licensing fees shall immediately return to the Board the previously issued official pressure seal.

- (d) If the person whose license qualified a business entity to engage in electrical contracting is rendered incapable of fulfilling his or her professional duties due to death, illness or other condition, the licensee or such other individual who may lawfully act for the business entity may delay returning the official pressure seal for at least six months provided that:
1. The Board is immediately notified in writing of the name of a new electrical contractor licensed by the Board, or of such other person as the Board deems acceptable, who shall qualify the business entity during the interim period provided by this subsection; and
 2. The business entity complies with all the provisions of the Electrical Contractors Licensing Act of 1962 and all regulations adopted thereafter.
- (e) During this interim period, the business entity may complete work in progress and may contract for new work provided that all such electrical work is performed or supervised by a licensed electrical contractor.
- (f) The Board may, for good cause shown, extend by six months the interim period during which electrical contracting may be performed provided that the conditions set forth in (d) above are satisfied.
- (g) By the end of either the initial six-month period or the additional six-month extension period, the pressure seal issued by the Board to the individual licensee cited in (d) above shall be returned to the Board consistent with N.J.S.A. 45:5A-14.

13:31-1.11 Fee schedule

- (a) The following fees shall be charged by the Board:
1. Application fee (non-refundable).....\$100.00
 2. Initial license fee:
 - i. If paid during the first year of a triennial renewal period.....\$150.00
 - ii. If paid during the second year of a triennial renewal period.....\$100.00
 - iii. If paid during the third year of a triennial renewal period\$ 50.00

3. Triennial license renewal \$150.00
4. Late renewal fee (within 30 days)\$ 50.00
5. Reinstatement fee \$100.00
6. Initial business permit:
 - i. If paid during the first year of a triennial renewal period \$ 75.00
 - ii. If paid during the second year of a triennial renewal period \$ 50.00
 - iii. If paid during the third year of a triennial renewal period \$ 25.00
7. Triennial business permit renewal\$ 75.00
8. Late renewal fee, permit \$ 25.00
9. Replacement seal press \$ 40.00
10. Duplicate license/business permit fee\$ 25.00
11. Replacement wall license/business permit \$ 40.00
12. Verification of licensure \$ 25.00
13. Identification card, qualified journeyman electrician (payable one time)\$10.00
14. Telecommunications wiring exemption—application fee and issuance of identification card (non-refundable).....\$120.00

13:31-1.12 Continuing education

- (a) At the time of publication of each new edition of the National Electrical Code, each licensee shall attend a course of study approved by the Board relating to the new Code.
- (b) Proof of the completion of the Code course referred to in (a) above shall be provided to the Board by each licensee as a prerequisite to the renewal of his license.
- (c) The Board may, in its discretion, waive the requirements of this section for reasons of hardship or illness. To apply for a waiver from the continuing education requirement, a licensee shall write to the Board explaining the reasons for the waiver request.

13:31-1.13 Supervision of electrical work

- (a) The licensee whose license qualifies the holder of a business permit to engage in the business of electrical contracting in the State of New Jersey shall assume full responsibility for the inspection and supervision of all electrical work to be performed by the permittee in compliance with recognized safety standards.
- (b) The qualifying licensee shall be deemed not to have assumed such required responsibility where he engages in the following acts and practices:
 - 1. Failure to personally inspect and supervise the work of employees where necessary and appropriate.
 - 2. Failure to ensure that electrical workers are afforded the degree of personal on-site supervision commensurate with their level of competence and the complexity of the work to be performed.
 - 3. Failure to be personally available on a reasonable basis where circumstances require personal availability.
 - 4. Regular and continuous absence from the principal office of the permit holder where the permit holder maintains a New Jersey office; or the regular and continuous absence from the work sites of electrical work performed in New Jersey where the permit holder does not maintain a New Jersey office.

13:31-1.14 Notification of change of address

Every licensee and business permit holder shall give notice to the Board of any change of address within 10 days of such change.

13:31-1.15 Joint ventures

- (a) Where two or more persons form a joint venture for the purpose of contracting to perform electrical work in New Jersey, each party to the joint venture shall hold a business permit issued by the Board to engage in electrical contracting in New Jersey.
- (b) The term “persons,” as used in (a) above, is defined to mean individuals, corporations, partnerships or other business entities.

13:31-1.16 Requirement of identification card defined

- (a) At the time of triennial renewal of the license and business permit, the Board of Examiners of Electrical Contractors shall furnish a wallet size identification card to every licensee. The card shall be used exclusively by the licensee in the conduct of his practice. A licensee who willfully or negligently allows an unlicensed or an unauthorized person to use his identification card shall be deemed to have engaged in occupational misconduct and shall be subject to such penalties and sanctions as shall be imposed by the Board pursuant to authority granted by N.J.S.A. 45:5A-1 et seq. and N.J.S.A. 45:1-14 et seq. The licensee is required to present said identification card upon request to the appropriate duly licensed inspection agency upon all applications for electrical permits.
- (b) Use of an identification card by any person other than the licensee to whom it is issued or his duly authorized agent acting on the licensee's behalf shall be deemed to be the use or employment of dishonesty, fraud, deception, misrepresentation or false pretense. Such conduct shall be unlawful and may be grounds for the suspension or revocation of the license of the unauthorized user if he is already licensed by the Board. With respect to an unlicensed user, such conduct shall be grounds for the refusal to issue a State license at any point in the future.

13:31-1.17 Limited telecommunications wiring exemption

- (a) Pursuant to N.J.S.A. 45:5A-18, the Board may grant an exemption from the license and business permit requirements of N.J.S.A. 45:5A-9(a) to a business engaged in telecommunications wiring.
- (b) For purposes of this subsection, "telecommunications wiring" means wiring within a premises, either inside or outside a building for voice and/or data transmission at voltage(s) compatible with the system being installed and connected to an FCC recognized communication network at the point of connection provided by the public utility providing communication services to the customer. It shall also include the

interconnection of data wiring between computers and/or terminals.

(c) An applicant for a telecommunications wiring exemption shall provide the following to the Board:

1. The full name and address of the applicant together with the nature of the business entity (for example, corporation, partnership or individual proprietorship) and the names and addresses of the owners, partners and/or officers of the entity;
2. A certification that the applicant is familiar with and is in full compliance with Part 68 of the Federal Communications Commission regulations (47 C.F.R. section 68.1 et seq.) concerning installation of telecommunications wiring and any other applicable Federal regulations;
3. A certification that the applicant is familiar with and will comply with applicable National Electrical Code requirements, including, but not limited to, Article 800 (communication circuits) and the regulations of the New Jersey Department of Community Affairs and that the applicant will be responsible for obtaining any required local permits and inspections for all work;
4. A certification that the applicant shall not perform the following work unless or until an electrical contractor's business permit is obtained from the Board:
 - i. Wiring defined by the National Electrical Code as service conductors (the supply conductors that extend from the main or transformers to the service equipment of the premises supplied), feeder (all conductors between service equipment or the source of a separately derived system and the final branch-circuit overcurrent device), and branch circuit (the connection between the final overcurrent device protecting the circuit and the outlet/appliance). Wiring between power supplies integral with telecommunication equipment and the telecommunication equipment is not intended to be prohibited.
 - ii. Telecommunications wiring from telecommunications

- equipment to power operated controlled equipment; or
- iii. Installation of work in hazardous/classified areas as defined by Article 500 of the National Electrical Code. Classified areas are those in which hazardous liquids, vapors, gases, dusts and fiber are normally present (Division 1 locations) or may be present due to maintenance or equipment malfunction (Division 2 locations); and
5. A certification that the business shall not subcontract telecommunications wiring work to a person or business entity not having a business permit or a telecommunications wiring exemption issued by the Board.
- (d) The application shall be accompanied by a processing fee as set forth in N.J.A.C. 13:31-1.11.
 - (e) The Board may require a personal interview with the applicant.
 - (f) If the applicant meets Board requirements for exemption set forth in this subsection, the Board shall issue a letter and an identification card designating the business as exempt.
 - (g) The exempt entity shall notify the Board in writing of any change of address within 10 days of the address change.
 - (h) The exempt entity shall notify the Board in writing of any change in name, ownership or form of ownership within 30 days of such change.
 - (i) After an opportunity to be heard pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., a telecommunications wiring exemption may be revoked on a showing that the exempt entity has engaged in the unlicensed practice of electrical contracting involving non-exempt electrical work; or that the exempt entity has a history of failure to pass local inspections or to obtain required permits; or for any reason which may serve as a basis to suspend, revoke or deny a license to engage in electrical contracting as more particularly set forth in N.J.S.A. 45:1-21 et seq.
 - (j) Nothing in this section shall preclude a licensed electrical contractor from performing telecommunications wiring.

13:31-1.18 Limited well drillers or pump installers exemption

- (a) Well drillers or pump installers licensed pursuant to N.J.S.A. 58:4A- 4.1 et seq., are exempt from the license and business permit requirements of N.J.S.A. 45:5A-9(a) for work involving the installation, servicing, or maintenance of well or water pumps.
1. Such work includes any exterior wiring from the well or water pump to the outside of the building and any interior wiring from the exterior wall terminating at the load side terminals of the pump controller, pressure switch or disconnecting means for the pump which must be no more than 10 feet from the point where the exterior wiring enters the building.
 2. Nothing in this section shall be deemed to exempt such work from permits and inspections required by the State Uniform Construction Code Act, P.L. 1975, c.217 (N.J.S.A. 52:27D-119 et seq.) or rules adopted pursuant thereto.

13:31-1.19 Unconscionable pricing

- (a) A licensee of the State Board of Examiners of Electrical Contractors shall not charge an excessive fee for services. A fee is excessive when, after a review of the facts, a licensee of ordinary prudence and familiarity with local market rates would recognize that the price is so high as to be manifestly unconscionable or overreaching under the circumstances. The Board shall consider the following factors in determining whether a fee is excessive:
1. The time and effort required;
 2. The novelty or difficulty of the job;
 3. The skill required to perform the job properly;
 4. Any special conditions placed upon the performance of the job by the person or entity for which the work is being performed;
 5. The experience, reputation and ability of the licensee to perform the services;
 6. The cost of materials; and

7. The price customarily charged in the locality for similar services.
- (b) It shall constitute occupational misconduct within the meaning of N.J.S.A. 45:1-21(e) to charge an excessive price for services.

SUBCHAPTER 2. (RESERVED)

New Jersey Administrative Code

Title 13, Chapter 45C.

Uniform Regulations

SUBCHAPTER 1. LICENSEE DUTY TO COOPERATE AND TO COMPLY WITH BOARD ORDERS

13:45C-1.1 Applicability, scope and definitions

- (a) This subchapter shall apply to all licensees of any board, committee or sub-unit within the Division of Consumer Affairs.
- (b) For the purpose of this subchapter, “licensee” shall mean any licensee, permittee, certificate holder or registrant of:
 - 1. The Division of Consumer Affairs;
 - 2. Any professional or occupational licensing board within the Office of Professional/Occupational Boards and any committee, or other subunit of a board or committee located within the Division;
 - 3. The Office of Consumer Protection; or
 - 4. The Legalized Games of Chance Control Commission.

13:45C-1.2 Licensee’s duty to cooperate in investigative inquiries

- (a) A licensee shall cooperate in any inquiry, inspection or investigation conducted by, or on behalf of, a board, the Director or the licensee’s licensing agency into a licensee’s conduct, fitness or capacity to engage in a licensed profession or occupation where said inquiry is intended to evaluate such conduct, fitness or capacity for compliance with applicable statutory or regulatory provisions.
- (b) A licensee’s failure to cooperate, absent good cause or *bona fide* claim of a privilege not identified in N.J.A.C. 13:45C-1.5 as unavailable, may be deemed by the board, the Director, or the licensing agency to constitute professional or occupational misconduct within the meaning of N.J.S.A. 45:1- 21(e) or the agency’s enabling act and thus subject a licensee to disciplinary action pursuant to N.J.S.A. 45:1-21(h) or the agency’s enabling act.

13:45C-1.3 Specific conduct deemed failure to cooperate

(a) The following conduct by a licensee may be deemed a failure to cooperate and, therefore, professional or occupational misconduct and grounds for suspension or revocation of licensure:

1. The failure to timely respond to an inquiry to provide information in response to a complaint received concerning licensee conduct;
2. The failure to timely provide records related to licensee conduct;
3. The failure to attend any scheduled proceeding at which the licensee's appearance is directed. In the event that a licensee elects to retain counsel for the purpose of representation in any such proceeding, it shall be the licensee's responsibility to do so in a timely fashion. The failure of a licensee to retain counsel, absent a showing of good cause therefor, shall not cause an adjournment of the proceeding;
4. The failure to timely respond or to provide information requested pursuant to a demand under N.J.S.A. 45:1-18 or other applicable law or to provide access to any premises from which a licensed profession or occupation is conducted. Included within this paragraph shall be the failure to respond to any demand for statement or report under oath, the failure to permit the examination of any goods, ware or item used in the rendition of the professional or occupational service and the failure to grant access to records, books or other documents utilized in the practice of the occupation or profession;
5. The failure to answer any question pertinent to inquiry made pursuant to N.J.S.A. 45:1-18 or other applicable law unless the response to said question is subject to a *bona fide* claim of privilege;
6. The failure to make proper and timely response by way of appearance or production of documents to any subpoena issued pursuant to N.J.S.A. 45:1-18 or as may otherwise be provided by law; or

7. The failure to provide to the Board, the Director or the licensing agency timely notice of any change of address from that which appears on the licensee's most recent license renewal or application.

13:45C-1.4 Failure to comply with Board orders as professional or occupational misconduct

The failure of a licensee to comply with an order duly entered and served upon the licensee or of which the licensee has knowledge shall be deemed professional or occupational misconduct.

13:45C-1.5 Unavailability of privileges in investigative or disciplinary proceedings

- (a) In any investigative inquiry conducted pursuant to N.J.S.A. 45:1-18 or in any disciplinary proceeding conducted pursuant to N.J.S.A. 45:1-21, or as may otherwise be authorized by law, the physician-patient privilege, psychologist-patient privilege, marriage and family therapist-client privilege, professional counselor-client privilege, associate counselor-client privilege, social worker-client privilege and the alcohol and drug counselor-client privilege shall be unavailable.
- (b) Any statements or records otherwise subject to a claim of the stated privileges which may be obtained by the Board, its agent or the Attorney General pursuant to N.J.S.A. 45:1-18 shall remain confidential and shall not be disclosed unless so ordered by a court of competent jurisdiction, the appropriate licensing board or the Office of Administrative Law in a contested case.

13:45C-1.6 Maintenance of and access to statements, records or other information that is subject to a privilege declared unavailable

- (a) Any statements, records or other information which may be subject to any privilege declared unavailable in this subchapter shall be maintained in a secure place and manner by:
 1. The evidence custodian within the Division of Consumer Affairs, Enforcement Bureau;
 2. The professional or occupational licensing board and the committee or other subunit of a board or committee lo-

cated within the Division which has a direct connection with, or a need for access to, the matter to which the statements, records or other information pertain; or

3. A Deputy Attorney General.

- (b) Except as may be otherwise ordered as provided in the subchapter, access to statements, records or other information shall be afforded only to employees of the Attorney General, the Enforcement Bureau, or the Board or other subunit of the Division having a direct connection with, or a need for access to, the matter to which the statement, records or other information pertain.
- (c) The statements, records or other information shall be retained only for the period of time during which an investigation remains open or until the completion of all administrative or judicial proceedings relating thereto, at which time they shall be returned to the licensee or other person from whom they were obtained. In the absence of such licensee or other person, the statements, records or other information shall be returned to the patient, where appropriate.